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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/587,508	04/20/2007	Yuko Miyake	4600-0125PUS1	9938

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EXAMINER	
PADEN, CAROLYN A	

ART UNIT	PAPER NUMBER
1781	

NOTIFICATION DATE	DELIVERY MODE
11/29/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/587,508	MIYAKE ET AL.	
	Examiner	Art Unit	
	Carolyn A. Paden	1781	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 October 2010*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,3,4 and 6-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,3,4 and 6-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1 and 16-18 are rejected under 35 U.S.C. 103(a) as obvious over Beroza alone or as further evidenced by Stecher.

Beroza discloses the sesamin content of sesame oil in Table 1. Three oil sources have the sesamin content of the claims. The sesaminol content of the oil is not mentioned but the claims anticipate or include 0% sesaminol. Beroza would not be expected to disclose the sesaminol content of oil under a situation where it was not found. Although bitterness is not mentioned, one would not expect sesame oil to be bitter. Stecher is relied upon for evidence that sesame oil is bland and thus would not be expected to be bitter. The claims appear to differ from Beroza in the recitation that the oil is refined. The fact that the oil may have been made by a different process is not alone seen to constitute unobviousness (note In re Thorpe 227 USPQ 964).

Applicant argues that Beroza is directed to crude oil that has not been refined and that Beroza did not measure all of the components of sesame

oil. This has been considered but is not persuasive. The sesame oil of Beroza would be expected to be the same sesame oil that is set forth in the claims. The fact that every component in sesame oil was not mentioned in Beroza does not indicate that sesaminol was present in the oil in the amount of the claims. Applicants' claims do not mention every ingredient that is in sesame oil. Applicant argues that his oil is refined and that Beroza merely filters his oil. The fact that the oil may have been made by a different process is not alone seen to constitute unobviousness (note In re Thorpe 227 USPQ 964). Applicant argues that refined sesame oils are bitter and not bland, as urged by Stecher. There is no suggestion that Beroza is bitter and there is no indication that Applicant's oil is highly refined.

Claims 1, 3 and 16-18 are rejected under 35 U.S.C. 103(a) as obvious over Beroza alone or taken with Fukuda and as further evidenced by Stecher.

Beroza discloses the sesamin content of sesame oil in Table 1. Three oil sources have the sesamin content of the claim 1. Beroza also teaches that the sesamin content of sesame seed varies a lot with seed source. The sesaminol content of the oil is not mentioned but the claims

anticipate or include 0% sesaminol. Beroza would not be expected to disclose the sesaminol content of oil under a situation where it was not found. Further evidence for the no sesaminol in sesame seed is shown in Table 2 of Fukuda. Here two samples of sesamin seed oil do not contain sesaminol oil and the bleached and deodorized oil contains less than 0.2% sesaminol. Although bitterness is not mentioned, one would not expect sesame oil to be bitter. Stecher is relied upon for evidence that sesame oil is bland and thus would not be expected to be bitter. The claims appear to differ from Beroza in the recitation that the oil is refined. Fukuda teaches refining sesame oil. The fact that the oil may have been made by a different process is not alone seen to constitute unobviousness (note In re Thorpe 227 USPQ 964).

Applicant argues that Beroza is directed to crude oil that has not been refined and that Beroza did not measure all of the components of sesame oil. This has been considered but is not persuasive. The sesame oil of Beroza would be expected to be the same sesame oil that is set forth in the claims. The fact that every component in sesame oil was not mentioned in Beroza does not indicate that sesaminol was present in the oil in the amount of the claims. Applicants' claims do not mention every ingredient

that is in sesame oil. Applicant argues that his oil is refined and that Beroza merely filters his oil. The fact that the oil may have been made by a different process is not alone seen to constitute unobviousness (note In re Thorpe 227 USPQ 964). Applicant argues that refined sesame oils are bitter and not bland, as urged by Stecher. There is no suggestion the Beroza is bitter and there is no indication that Applicant's oil is highly refined.

Applicant argues that Fukuda does not contain the extent of sesamin that is required in the claims. This has been considered but is not persuasive. Beroza teaches that sesame oil contains different amounts of sesamin that varies with the specimen. The amount of sesamin in the oil of Beroza appears to vary by a coefficient of 26.3%. The fact that the extent of sesamin in sesame oil is not identical to that of Beroza or Fukuda does not alter the fact that the oil is still refined sesame oil.

Claims 4, 6-16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Menzes in view of Hui and further in view of Swern.

Menzes discloses sesame oil preparation. On page 184, in the Experimental section, sesame seed is flaked and extracted with hexane at

100F. Then the miscella is concentrated at 180F under a partial vacuum of carbon dioxide. The oil was refined with alkali before bleaching, as required in claim 10. Then the oil is bleached using 2% bleaching clay as required in claim 6 at 120C (page 185, column 1). The oil is then separated from the clay. Deodorization is suggested in Menzes on page 186, column 1. The claims appear to differ from Menzes in the recitation of the bleaching temperature used in the process. Hui teaches that there is no critical bleaching temperature for optimum bleaching results (paragraph 3, page 201). Hui also indicates that lower temperatures of 75-85C are recommended for some activated earths. It would have been obvious to one of ordinary skill in the art to lower the bleaching temperature of Menzes according to optimize the treatment results. It is appreciated that a specific sesame oil with a certain taste, sesamin and sesaminol content is not mentioned but the claims are directed to the process and not to the oil prepared. One of ordinary skill in the art would be able to select an oil for refining that meets the particular requirements for the desired sesame oil.

It is appreciated that the amount of bleach in claim 14 and the bleaching time of claim 10 are not mentioned but one would be expected to adjust the bleaching time according to the color of the sesame oil that is

finally desired. It is also appreciated that degumming and dewaxing, as required in claims 15 and 16, is not mentioned but degumming is a well known edible oil refining step and Swern at page 264 and 317 is relied upon to support this assertion.

The claims appear to differ from Menzes in view of Hui in the recitation of the use of active carbon as an absorbent for bleaching. Swern teaches that activated carbon is the only alternative adsorbent used for treating fatty oils (page 295, paragraph 3). It would have been obvious to one of ordinary skill in the art to utilize activated carbon in the bleaching of Menzes as an alternative adsorbent.

Applicant argues that bleaching temperatures of 80C yielded high levels of sesaminol in his test results but the bleaching occurred over a 30 minute period in these examples. Menzes only bleached his oil for 5 minutes. One of ordinary skill in the art would not expect any negative effects to occur with the Menzes treatment because the treatment time was so limited.

Applicant argues that Hui does not show optimum treatment conditions for sesame oils but one of ordinary skill in the art would be expected to optimize the time and temperature for bleaching treatment in

Menzes to achieve his desired sesame oil. Applicant argues that Swern teaches away from using activated carbon because of its high cost and high oil retention. This has been considered but is not persuasive. One of ordinary skill in the art may elect activated carbon under conditions where bleaching clay is not available.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn A Paden whose telephone number is (571) 272-1403. The examiner can normally be reached on Monday to Friday from 7 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached by dialing 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Carolyn Paden/

Primary Examiner 1781

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